

REMARKS/ARGUMENTS

The Office Action mailed July 28, 2006, has been received and its contents carefully considered. Reconsideration and withdrawal of the outstanding rejections are respectfully requested in view of the foregoing amendments and the following remarks.

In the Office Action mailed July 28, 2006, claims 1-20 stand rejected. Applicant has thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the references cited therein. The following remarks are believed to be fully responsive to the Office Action. All the pending claims at issue are believed to be patentable.

Claims 2, 4, 9, 11, and 12 are presently amended. Claims 1, 5, 6, 7, and 8 are cancelled. No claims are added. As such, claims 2-4 and 9-20 remain pending.

CLAIM REJECTION – 35 U.S.C. § 102(b)

Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,062,846 to Oh et al. (Oh, et al.). Applicants respectfully traverse said rejection.

With respect to pending claim 2, Applicants have amended said claim to be independent and to include all of the limitations of cancelled claim 1. In particular, amended claim 2 recites "a gusset within the mouth of said hook." Para. 3 of the Office Action states that Oh et al. comprises a "gusset (43) within the mouth of said hook." The "mouth" of a hook is understood by a skilled person to be the portion of a hook which is surrounded by the curvature of the hook. However, Applicants respectfully point out that, as can be seen in FIG. 2 of Oh et al., there is no element at all disposed in the "mouth" of hook member (22). Rather, the "hook portion 22 terminates in a distal tip portion 29 which extends rearwardly and itself terminates in a sharp pointed distal tip 31." (Oh et al. , col. 4, lines 64-67). There is no member disposed in the mouth of hook 22.

A “mouth” (45) is clearly indicated by Applicants in FIGS. 3 & 4 of the pending application and described in the specification, such as at page 8, lines 22-23. As can also be seen in said FIGS. 3 & 4, a “gusset (53)” extends into and through mouth (45).

In the device disclosed in Oh et al., the mouth of the hook (22) is empty. (See empty recess indicated by the lead line from reference indicator 26 in Oh et al. FIG. 2). The reason for this is that, in Oh et al. there is no additional interlocking mechanism beyond the hook itself to lock the two legs of the clip together. Oh et al. instead focuses on and discloses a penetrating distal tip member to better cut tissue when the clip is clamped. (See Oh et al., Abstract).

By contrast, Applicants’ invention provides an interlocking mechanism which can better lock, bind, or attach the distal end portions of two legs of a ligating clip, above and beyond the plain hook member shown in the clip device of Oh et al. The interlocking mechanism of Applicants’ invention is provided in part by the “gusset within the mouth of said hook” recited in amended claim 2. Since said gusset element is missing in Oh et al., Applicants respectfully assert that Oh et al. cannot anticipate amended claim 2. Accordingly, Applicants request that the rejection under 35 USC Sec. 102 with respect to claim 2 be withdrawn.

With respect to independent claim 12, Applicants also traverse the rejection under 35 USC Sec. 102 and assert that Oh et al. does not anticipate said claim since Oh et al. fails to teach or disclose every element recited in claim 12. First, as a preliminary measure, Applicants have further amended claim 12 to be more clear and definite by: (i) deleting the phrase “outwardly extending” before the recital of “spaced-apart detents,” since said “outward” orientation does not include a proper reference point to determine exactly which direction is “outward”; and (ii) the phrase “an inwardly turned” is deleted prior to the recital “a lip” as well as deletion of the phrase “extending generally toward said flexible hinge section” thereafter, since the lip 55 (best shown in FIGS. 5 & 6 of the present application) can extend in one or more directions and not just simply towards the hinge portion of the clip.

Amended claim 12 recites “a bifurcated recess in the mouth of said hook” which is entirely missing from Oh et al. As discussed above with respect to amended claim 2, such a “a bifurcated recess” is not present in the mouth of hook 22 in Oh et al. Paragraph 13 of the Office Action states that a “bifurcated recess (surface between the edge of 43 and the surface of 45) in the mouth of said hook” is allegedly found in Oh et al. Applicants respectfully disagree and point out that element 43 in Oh et al. is “formed from a sloped surface 45 *which extends away from the curved outer surface of the distal tip portion* and the sharp tip 31, *somewhat in a direction away from the hinge portion of the clip.*” (Oh et al., col. 5, lines 13-18). Therefore, as can be clearly seen in FIG. 2 of Oh et al., the “edge of 43 and the surface of 45” of Oh et al. cited in Paragraph 13 of the Office Action are not at all located in the mouth of hook 22, but instead are located on the outside surface of the hook member, which, by definition, is opposite to and on the other side of the mouth portion; and, as indicated in Oh et al., said elements 43 and 45 extend generally away from the hinge portion of the clip. Instead, in both of the clips shown in Oh et al. and Applicants’ invention, the “mouth” of the hook generally faces towards the hinge and not away from it. Thus, the edge of 43 and surface 45 in Oh et al. cannot be a bifurcated recess and are not located in the mouth of the hook 22. Accordingly, Oh et al. does not have “a bifurcated recess in the mouth of said hook” as recited in claim 12.

By contrast, as best shown in FIGS. 3 & 4 of the present application, the mouth 45 of hook member 41 is bifurcated to create two recesses 43 on each side of the bifurcation, including on either side of gusset 53. Oh et al. does not teach or disclose such a limitation. Accordingly, for at least this reason, Oh et al. cannot anticipate amended claim 12.

In addition, Oh et al. does not teach two “spaced-apart detents each having a lip” as recited in amended claim 12. Paragraph 13 of the Office Action does not point out which element in Oh et al. discloses such detents having lip portions. Applicants believe that such

detents do not exist in Oh et al., and certainly do not include any kind of lip. Accordingly, for at least this reason, Oh et al. cannot anticipate amended claim 12.

Therefore, for the multiple reasons set forth above, Applicants respectfully request that the rejection under 35 USC Sec. 102 with respect to amended claim 12 be withdrawn.

Accordingly, amended claims 2 and 12 are believed to be allowable and Applicants respectfully request that the rejections with regard to said claims be withdrawn.

Dependent claims 3, 4, 9-11, and 13-20 each depend, directly or indirectly, from one or another of independent claims 2 and 12. These claims recite additional limitations which, in conformity with the features of their corresponding independent claim, are not disclosed or suggested by the art of record. Since the independent claims are believed to be novel and therefore patentable, by definition, their dependent claims are also believed to be novel and patentable. Therefore, applicants also respectfully request that the rejection under 35 USC Sec. 102 with regard to dependent claims 3, 4, 9-11, and 13-20 be withdrawn.

DOUBLE PATENTING

Claims 1, 5, 6, and 7 are rejected on the ground of nonstatutory obviousness-type double patenting. Applicants have cancelled claims 1, 5, 6, and 7. Accordingly, Applicants respectfully assert that there is no potential for double-patenting within the application and claims as currently amended.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. If it is believed that the application is not in condition for allowance, the Examiner is requested to contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

Docket No. 59474.21780
Application No. 10/763,032
Customer No. 30734

Patent

In the event this paper is not timely filed, Applicant petitions for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036 with reference to Attorney Docket No. 59474.21780.

Respectfully submitted,

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